UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1993/101
25 February 1993

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Forty-ninth session
Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Letter dated 25 January 1993 addressed to the Chairman/Rapporteur of the Working Group or Arbitrary Detention of the Commission on Human Rights by the Permanent Representative of Burundi to the United Nations Office at Geneva

The Permanent Mission of Burundi has received letter G/SO 218/1 Burundi of 10 December 1992 transmitting the decision by the Working Group on Arbitrary Detention in the Emile Ruvyiro case. We are grateful to you for having informed us of decision No. 48/1992 and wish to make the following three comments:

1. We understand that the Working Group disapproves of the fact that the Government of Burundi did not provide information within the time limit set. We nevertheless believe that it was too quick to take that as a sign of Burundi's failure to cooperate. You will notice that your letter of 8 April 1992 was addressed to my predecessor, who was living in Rome. He was unable to reply because administrative changes took place and involved transfers, including his own. You are also probably aware that, at the same time, some villages in Burundi were being attacked by an ethnic-terrorist faction called "Palipehutu", which is opposed to the policy of national unity advocated by the authorities in power. You can imagine how concerned the political authorities were to restore order. In view of these circumstances, a letter of reminder would not have been out of place and would probably have led to a satisfactory solution to the problem.

2. We also wish to point out that decision No. 48/1992 contains a genuine contradiction as to substance in that it is based on sources of information which are unknown and are consequently of doubtful objectivity because they have not been compared with the information that was to be provided by the Government. The fact of not being able to report to the Working Group within the 90-day time-limit does not mean that the Government of Burundi does not challenge the facts and allegations, but that its silence was the result of other causes, as explained above.

3. According to the information available to us, the case in question does not fall within any of the three categories referred to in the decision of the Working Group on Arbitrary Detention. It is a criminal case which has been properly handled and in which the court file has been properly investigated; details about the offences and developments in the case can be transmitted to you by the competent authorities without delay. Contrary to what is stated in the Working Group's decision, namely, that the person in question has been kept in detention "because he peacefully exercised his right to freedom of opinion and expression", we wish to make it clear that, under the current regime in Burundi, no one is prosecuted for having criticized the Government, the authorities, the parties or the administration and no one is prosecuted for having written anything, except for offences involving pamphlets inciting to ethnic hatred, which are punishable under Burundi law.

It would therefore be regrettable if the human rights bodies were misused and regarded persons brought before the courts for offences in connection with membership of a terrorist movement as prisoners of opinion. The case in question concerns the category of persons who have been arrested for activities punishable by law, not for their political beliefs. The charges against the person in question concern violations of the laws of the country, as confirmed, moreover, by article 20 of the International Covenant on Civil and Political Rights stating that "Any propaganda for war shall be prohibited by law. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law".

In view of the above-mentioned information and until details of the case in question have been received, the Permanent Mission of Burundi proposes to the Chairman/Rapporteur of the Working Group on Arbitrary Detention that the reproduction of decision No. 48/1992 (Burundi) in the report to be submitted to the forty-ninth session of the Commission on Human Rights should be postponed. Otherwise, we would request the Chairman/Rapporteur to circulate the present request and the information on which it is based.

(Signed) Colette Samoya Kirura
Permanent Representative